

1 DAVID L. ANDERSON (CABN 149604)  
United States Attorney  
2 SARA WINSLOW (DCBN 457643)  
Chief, Civil Division  
3 JEVECHIUS D. BERNARDONI (CABN 281892)  
Assistant United States Attorney  
4 450 Golden Gate Avenue, Box 36055  
San Francisco, California 94102-3495  
5 Telephone: (415) 436-7164  
Facsimile: (415) 436-7234  
6 jevechius.bernardoni@usdoj.gov

7 Attorneys for Federal Defendants

8 HANNAH SHEARER (CABN 292710)  
Giffords Law Center to Prevent Gun Violence  
9 268 Bush Street #555  
San Francisco, CA 94104  
10 hshearer@giffords.org  
Phone: (415) 433-2062  
11 Fax: (415) 4333-3357

12 BENJAMIN SEEL\*\*  
NITIN SHAH\*\*  
13 Democracy Forward Foundation  
1333 H Street NW, Ste. 1100  
14 Washington, DC 20005  
bseel@democracyforward.org  
15 nshah@democracyforward.org  
Phone: (202) 448-9090  
16 Fax: (202) 701-1775  
\*\* admitted *pro hac vice*

17 Attorneys for Plaintiff

18 UNITED STATES DISTRICT COURT  
19 NORTHERN DISTRICT OF CALIFORNIA  
20 OAKLAND DIVISION

21 GIFFORDS LAW CENTER TO PREVENT  
22 GUN VIOLENCE,

23 Plaintiff,

24 v.

25 UNITED STATES DEPARTMENT OF  
JUSTICE and BUREAU OF ALCOHOL,  
26 TOBACCO, FIREARMS, AND  
27 EXPLOSIVES,

28 Defendants.

CASE NO. 18-cv-06171 DMR

**UPDATED JOINT CASE MANAGEMENT  
CONFERENCE STATEMENT AND  
STIPULATION AND ~~[PROPOSED]~~ ORDER  
RESETTING CASE MANAGEMENT  
CONFERENCE AND RELATED DEADLINES**

1 Plaintiff, Giffords Law Center to Prevent Gun Violence, and defendants, United States Department  
2 of Justice (“DOJ”) and the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) (collectively  
3 “defendants”), jointly submit this Updated Joint Case Management Conference Statement pursuant to the  
4 Court’s February 13, 2020 Order (ECF No. 44).

5 Plaintiff has sued defendants for alleged violation of the Freedom of Information Act (“FOIA”), 5  
6 U.S.C. § 552. Plaintiff alleges that on July 25, 2018, plaintiff submitted two FOIA requests, one to ATF  
7 and another to DOJ. Both requests sought records from January 20, 2017 until the date the requests are  
8 processed, concerning communications between agency officials and 46 individuals, listed on Appendix A  
9 to the requests. Additional details regarding the scope of the FOIA requests are included in the parties’  
10 July 24, 2019 Joint Case Management Statement (ECF No. 35).

11 Plaintiff’s FOIA request to DOJ sought records from multiple offices within DOJ. All of those  
12 offices have now completed their responses. DOJ Civil Division sent plaintiff a final response stating that  
13 it did not locate any responsive records around November 28, 2018. On May 8, 2019, DOJ’s Office of  
14 Legal Counsel (OLC) sent plaintiff a final response, which included a production of 25 pages. DOJ’s  
15 Office of Information Policy (DOJ-OIP) is responsible for processing FOIA requests for the remaining  
16 DOJ offices from which records have been requested: the Offices of the Attorney General (OAG), Deputy  
17 Attorney General (ODAG), Associate Attorney General (OASG, referenced in plaintiff’s FOIA request  
18 as AAG), Legal Policy (OLP), Legislative Affairs (OLA), and Public Affairs (PAO). At the initial case  
19 management conference on April 17, 2019, the parties reported that they had reached an agreement  
20 regarding narrowing of plaintiff’s FOIA request as it relates to those offices over which DOJ-OIP has  
21 responsibility. Pursuant to that agreement, DOJ-OIP confined its electronic search to an agreed-upon list  
22 of custodians. DOJ-OIP issued three responses to plaintiff: one on November 8, 2019, one on December  
23 6, 2019, and its final response on January 17, 2020, which collectively included production of 143 pages.

24 At the initial case management conference, defendant reported that ATF had conducted searches  
25 for records responsive to plaintiff’s request. At that time, ATF was in the process of reviewing records  
26 returned from those searches and anticipated completing its release of documents in two productions, on  
27 May 10, 2019 and on June 10, 2019. Plaintiff received a release of 123 pages on May 10, 2019. ATF has  
28 now completed its response, including by producing an additional approximately 1,600 pages.

As reported in the September 13, 2019 Joint Status Report, November 25, 2019 Updated CMC Statement, and February 12, 2020 Updated CMC Statement, the parties were not in a position to determine whether *Vaughn* indices are necessary in this case and/or if the parties can agree to the preparation of narrowly tailored *Vaughn* indices, focused on certain claimed exemptions/records. ECF Nos. 39, 41, and 43. Instead, the parties agreed that DOJ-OIP should be allowed to complete its response, plaintiff should be provided time to review the released records, and the parties should then be given an opportunity to meet and confer regarding (1) the need for and/or the scope of *Vaughn* indices in this case and (2) the timing of the production of any *Vaughn* indices needed in this case. *Id.*

Although the parties agreed at that time that *Vaughn* indices are not necessary at this stage of the litigation, defendants agreed to produce draft search summaries to allow plaintiff to analyze the adequacy of defendants' searches. *Id.* Specifically, defendants agreed to produce draft search summaries as follows:

- October 31, 2019: ATF will produce its draft search summary
- December 6, 2019: DOJ-OLC will produce its draft search summary
- January 31, 2020: DOJ-OIP will produce its draft search summary (or on December 20, 2019, if DOJ-OIP's final response is provided on December 6, 2019)

*Id.* ATF requested, and plaintiff granted, a one-day extension on the deadline to produce its draft search summary, and ATF produced its draft search summary to plaintiff on November 1, 2019. OLC and OIP produced their draft search summaries as scheduled on December 6, 2019 and January 31, 2020, respectively.

The parties are currently meeting and conferring productively regarding any remaining disputes with the defendants' final FOIA responses. Because the parties continue to make progress cooperatively, the parties HEREBY STIPULATE AND REQUEST that the April 1, 2020 case management conference be continued to July 1, 2020 at 1:30 p.m., which will allow the parties to continue their meet and confer negotiations.

DATED: March 25, 2020

Respectfully submitted,  
DAVID L. ANDERSON  
United States Attorney

/s/ Jevechius D. Bernardoni  
JEVECHIUS D. BERNARDONI\*  
Assistant United States Attorney  
Attorneys for Federal Defendants

1  
2 DATED: March 25, 2020

Democracy Forward Foundation

3 /s/ Benjamin Seel

4 BENJAMIN SEEL

NITIN SHAH

5 \*\*admitted *pro hac vice*

6 Giffords Law Center to Prevent Gun Violence

HANNAH SHEARER

7 Attorneys for Plaintiff

8  
9 \* *In compliance with Civil Local Rule 5-1(i), the filer of this document attests that all signatories listed*  
10 *have concurred in the filing of this document.*

11 **~~PROPOSED~~ ORDER**

12 Pursuant to the stipulation of the parties and good cause appearing, IT IS HEREBY ORDERED  
13 that the further case management conference for this case is reset to July 1, 2020 at 1:30 p.m., with a  
14 further case management statement due by June 24, 2020.

15  
16 DATED: March 26, 2020

17 THE HONORABLE DONNA M. RYU  
18 UNITED STATES MAGISTRATE JUDGE

